

Amendment No. 1 to HB0102

Haynes  
Signature of Sponsor

**AMEND Senate Bill No. 129\***

**House Bill No. 102**

By deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-2-103, is amended by deleting subsection (d) and substituting instead the following:

(d)

(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through referendum of voters within such municipality; or

(B) The unincorporated areas of a county, or a municipality which has a population of less than one thousand (1,000) persons in such county, if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through referendum by the voters in any jurisdiction within such county.

(2)

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AMEND Senate Bill No. 129\*

House Bill No. 102

(A) Notwithstanding subdivision (d)(1), the county legislative body of any such county may adopt a resolution to remove the unincorporated areas of the county from the application of this subsection (d) subject to the restrictions in subdivision (d)(2)(B). The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the county legislative body pursuant to subdivision (d)(2)(A) until a written notification is filed with the county mayor by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the unincorporated areas of the county. Once the notice is filed, no action may be taken by the county legislative body unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(2)(B) may not be filed with the county mayor until at least forty-five (45) days after the effective date of this act.

(C) If a county adopts a resolution pursuant to subdivision (d)(2)(A), the county may at a later date adopt a resolution reversing such action. The county mayor shall notify the alcoholic beverage commission if such action is taken and approved.

(3)

(A) Notwithstanding subdivision (d)(1), the legislative body of any municipality may adopt a resolution to remove the municipality from the application of this subsection (d) subject to the restrictions in subdivision (d)(3)(B). The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(B) Such action may be taken by the legislative body of the municipality pursuant to subdivision (d)(3)(A) until a written notification is filed with the legislative body of the municipality by any person as an official notice that the person intends to pursue all lawful avenues to manufacture intoxicating liquors or intoxicating drinks, or both, within the boundaries of the municipality. Once the notice is filed, no action may be taken by the legislative body of the municipality unless such interest is withdrawn or the person's application to manufacture such intoxicating liquors or intoxicating drinks, or both, is denied by the state or federal government. A written notification as described pursuant to this subdivision (d)(3)(B) may not be filed with the legislative body of the municipality until at least forty-five (45) days after the effective date of this act.

(C) If a municipality adopts a resolution pursuant to subdivision (d)(3)(A), the municipality may at a later date adopt a resolution reversing such action. The legislative body of the municipality shall notify the alcoholic beverage commission if such action is taken and approved.

(4) If a manufacturer that has been issued a license pursuant to this subsection (d) also obtains a special retail license in accordance with § 57-3-204(f)(1) and the manufacturer is located in a jurisdiction that pursuant to § 57-5-105 has established a distance requirement that restricts the storage, sale or manufacture of beer from places

of public gatherings or in a municipality or Class B county that pursuant to § 57-5-106 has adopted proper ordinances governing the storage, sale, manufacture and/or distribution of beer within its jurisdictional boundary, then any distance requirement related to a building used for religious purposes in effect in that jurisdiction shall apply to the building used for the retail sale of the manufacturer's alcoholic beverages or products containing alcohol. The measurement shall be a building-to-building measurement.

SECTION 2. Tennessee Code Annotated, Section 57-2-103, is amended by deleting subsection (f) and substituting instead the following:

(f)

(1) Notwithstanding subsections (a)-(c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of:

(A) A municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality; or

(B) The unincorporated areas of a county if any jurisdiction located within such county has approved retail package sales through referendum of voters and any jurisdiction located within such county has approved consumption of alcoholic beverages on the premises through referendum of voters or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum in any jurisdiction within the county.

(2) Any manufacturer authorized pursuant to subdivision (f)(1) must also hold a brewer's notice approved by the United States department of the treasury, alcohol and

tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(3) In all jurisdictions not meeting the requirements of subdivision (f)(1), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of subsections (a)-(c), and if the manufacturer also holds a brewer's notice approved by the United States department of the treasury, alcohol and tobacco tax and trade bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(4) Notwithstanding any other law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license requirements.

(5) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to June 10, 2011.

(g) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of intoxicating liquors or intoxicating drinks, or both prior to the effective date of this Act.

(h)

(1) Any person who has received a manufacturing license for intoxicating liquors or intoxicating drinks, or both from the alcoholic beverage commission or who has an application for such manufacturing license pending with the commission on July 1, 2013,

may still receive and be able to renew the license if the person was authorized to apply for such license under this section prior to July 1, 2013.

(2) Any person who has received the necessary permit to manufacture intoxicating liquors or intoxicating drinks, or both from the alcohol and tobacco tax and trade bureau (TTB) or who has an application for such permit pending with the TTB on July 1, 2013, may still receive and be able to renew a manufacturing license from the alcoholic beverage commission if the person was authorized to apply for such manufacturing license under this section prior to July 1, 2013.

(3) If any person obtains a manufacturing permit pursuant to this subsection (h), then the jurisdiction such licensee is located in shall be allowed to have other manufacturers located in such jurisdiction, notwithstanding subdivision (d)(1).

SECTION 3. Tennessee Code Annotated, Section 57-3-202, is amended by adding the following as a new subsection thereto:

(i)

(1) A manufacturer's license issued or renewed under this section to a manufacturer located in a county that has approved a referendum pursuant to § 57-2-103(a)-(c) shall also allow such manufacturer to sell at retail on the licensed premises of the manufacturer products that are manufactured on the manufacturer's premises; provided that no more than five gallons (5 gal.) or one-sixth (1/6) of a barrel of its products may be sold to any one (1) individual per visit to the premises. The manufacturer may serve samples of the product manufactured or distilled at the premises to any person of legal drinking age without cost or may include such samples as part of a tour of the manufacturer's or distiller's premises available to the public with or without cost. Such samples

may be made available at any location on the manufacturing premises permitted by federal law. The manufacturer shall disclose to the commission the location where samples are available. The hours of sale for the manufacturer to sell products at retail shall be between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday and between the hours of noon (12:00 p.m.) and seven o'clock p.m. (7:00 p.m.) on Sunday.

(2) Subdivision (i)(1) shall also apply to any manufacturer located in a jurisdiction described in § 57-2-103(d)(1)(A) or (B) or any manufacturer described in § 57-2-103(h) only if such manufacturer did not obtain a license pursuant to § 57-3-204(f) prior to July 1, 2013. Any manufacturer located in a jurisdiction described in § 57-2-103(d)(1)(A) or (B) who did obtain a license pursuant to § 57-3-204(f) prior to July 1, 2013 shall continue to be licensed under such subsection and shall not eligible to be licensed pursuant to subdivision (i)(1).

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect July 1, 2013, the public welfare requiring it.